UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/Sub.2/1992/SR.15
19 August 1992

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS

SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND
PROTECTION OF MINORITIES

Forty-fourth session

SUMMARY RECORD OF THE 15th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 13 August 1992, at 3 p.m.

Chairman: Mrs. KSENTINI

CONTENTS

Question of the violation of human rights and fundamental freedoms, including policies of racial discrimination and segregation and of apartheid, in all countries, with particular reference to colonial and other dependent countries and territories: report of the Sub-Commission under Commission on Human Rights resolution 8 (XXIII) (continued)

Elimination of racial discrimination (continued)

(a) Measures to combat racism and racial discrimination and the role of the Sub-Commission (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Sub-Commission at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.92-13245/4801B (E)

The meeting was called to order at 3.30 p.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES: REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTIONS 8 (XXIII) (agenda item 6) (continued) (E/CN.4/Sub.2/1992/13-14; E/CN.4/Sub.2/1992/39-41; E/CN.4/1993/3-E/CN.4/Sub.2/1992/42; E/CN.4/1993/5-E/CN.4/Sub.2/1992/43; E/CN.4/Sub.2/1992/45, 47; E/CN.4/Sub.2/1992/NGO/4, 6, 8, 13-14)

Text concerning the former Yugoslavia submitted by the Sub-Commission to the Commission on Human Rights at its special session

1. Mr. CHERNICHENKO said that he wished to make four comments on the text concerning the situation in the former Yugoslavia adopted by the Sub-Commission at its 14th meeting. To begin with, it had of course been entirely proper for the Sub-Commission to react to the situation in the former Yugoslavia. The State of Yugoslavia, however, still existed, even though the violations in question were taking place on former territory of that State. Secondly, the text twice referred to "policies" of ethnic cleansing. However, more thorough study would be needed before the Sub-Commission could justify describing ethnic cleansing as a policy. He himself would have favoured a reference only to "practices" of ethnic cleansing. Thirdly, the text made special reference to violations of the rights of the Muslim population in Bosnia and Herzegovina. If the scale of the violations taking place was the criterion to be applied, it was undoubtedly the Muslims who were suffering most. Yet the Sub-Commission surely held dear the lives of all the inhabitants of Bosnia and Herzegovina. The wording of the text on that point should thus have been further refined. Lastly, the text referred in its final subparagraph to crimes against peace, humanity and war crimes. As a jurist, he was obliged to point out that actions could be qualified as crimes only following a decision by a domestic court, or by an international court such as the Nuremberg Tribunal. Clearly, the text should have been more legal and less emotional in tone.

2. Mr. AL-KHASAWNEH responded to the four points raised by Mr. Chernichenko. The assertion that the State of Yugoslavia lived on was of course debatable. Ultimately, it was a matter of State succession and recognition. A safer view might be that the international personality of the Socialist Federal Republic of Yugoslavia had been extinguished and that there had been no automatic succession.

3. With regard to the opposition between policies and practices, in 1989 he had read a speech delivered by the then President of Yugoslavia on the occasion of the six hundredth anniversary of the Battle of Kosovo. That speech had contained all the seeds of ethnic cleansing. In his view, when the authorities at the helm of a State made such statements and those statements were subsequently backed up by practice, the existence of a policy could reasonably be inferred.

4. With regard to the Muslims, it had certainly not been the intention of the drafters of the text to single them out for any special treatment; hence the reference in the text to "different ethnic groups". As for the reference

to "crimes against peace, humanity and war crimes", the horror of the events taking place constituted prima facie evidence of the existence of crimes. The drafters had not in any sense been prejudicing the question of judicial proceedings. The machinery envisaged for that purpose could be that provided for under the four Geneva Conventions. There had also been talk of establishing an international criminal court. A third avenue that might be explored was the role of the municipal courts.

5. The CHAIRMAN appealed to the experts not to reopen the debate on the question of the text concerning the former Yugoslavia, which had been unanimously adopted at the previous meeting.

6. Mrs. ATTAH said that, looking back over the past 12 months, one could note some positive changes in the enjoyment of human rights in Africa and elsewhere, with more and more people challenging the status quo and demanding their civil and political rights. While those demands had sometimes resulted in violent demonstrations and loss of life, they had also led to policy changes, reforms and peaceful changes of Government. Nevertheless, there was still a need for Governments to set up or strengthen institutions for the promotion and protection of rights.

7. On the negative side, however, there had been increased tensions, intolerance and ethnic conflicts, principally attributable to economic deprivation and hardship. Furthermore, as a result of the carve-up of Africa by the colonial Powers in the nineteenth century, most African States had had to live with artificial borders that separated tribes and families, so that Africa now had the greatest potential for border disputes and tribal conflicts in the world. It was to be hoped that that situation would not become a further source of conflict in the continent.

8. Liberia and Somalia were examples of how ethnic hatred and conflict could quickly degenerate into fratricidal war. Somalia, once a symbol of homogeneity and unity in Africa, had destroyed itself in a civil war brought about by the plague of ethnic hatred now also raging in other parts of the world. The Organization of African Unity had made several unsuccessful attempts to bring peace and reason to that war-torn country, with its outgoing Chairman, President Babangida of Nigeria, personally intervening three times, and had called upon all the factions to cease hostilities immediately and maintain the jointly negotiated cease-fire. She called upon the United Nations to do everything in its power to put an end to the sufferings in Somalia.

9. Although ethnic rivalry and hatred had not been the main cause of the civil war in Liberia, they had none the less played a role. Thousands were suffering as a result of that conflict, while the African continent, saddled with its own economic problems, now had to devote scarce resources to attempts to bring about peace in Liberia, as well as in Somalia. The Organization of African Unity hoped that the international community would also contribute to the restoration of peace in Liberia.

10. She was disappointed that, in spite of the hopes raised the previous year, the Palestinians had yet to enjoy their human rights and exercise their right to self-determination. The Sub-Commission had been told at its previous session that it should not jeopardize the forthcoming Peace Conference by

discussing the sufferings of the Palestinians. In spite of the restraint it had exercised in that regard, it had seen no positive results. Palestinians' rights to education, employment and housing continued to be violated; they continued to be ejected from their homes in Jerusalem and from their farms in the occupied West Bank. She urged the Government of Israel to speed up the peace process.

11. The hopes and expectations with which the international community had greeted the end of the cold war were now giving way to feelings of frustration and anxiety. In the aftermath of the 1991 coup, the world had witnessed ethnic intolerance, expulsions or conflicts in many parts of the former Soviet Union. Those events, however, paled in comparison with the atrocities daily being committed in the former Yugoslavia, and especially in Bosnia and Herzegovina. It was regrettable that the international community had chosen to ignore early warnings of that tragedy, such as the intensity and ferocity of the war between Croatia and Serbia, and had stood idly by, even as the war intensified in Bosnia. The violence and genocide must now immediately be halted. It was not sufficient to create safe corridors for food: the paramount right was the right to life. The abhorrent policy of ethnic cleansing must be condemned. Furthermore, any settlement that failed to include restoration of homes and lands to their former owners would not bring lasting peace to the country. The international community must act swiftly to return the refugees to their homes.

12. That brought to mind the case of the refugees in Cyprus, who after 18 years were still deprived of their homes and means of livelihood. She was confident that the Secretary-General would soon succeed in finding a just and lasting solution to the Cyprus question.

13. The international community must show the vigilance and courage needed to deal with early warnings of violations. Only thus could it prevent the escalation of conflicts and the carnage and massive violations that would inevitably follow in their wake.

14. Mr. SABOIA said that, in spite of near-universal acceptance of human rights instruments and of monitoring procedures, human rights standards continued to be seriously violated in many countries and there was still limited progress in the overall enjoyment of human rights. Admittedly, there had been an improvement in the enjoyment of certain rights, especially those of a civil and political nature, as a result of the political changes the world had undergone. On the other hand, new or ongoing conflicts continued to be a source of gross violations, and entire peoples were subject to serious forms of oppression and discrimination. Moreover, the denial of economic, social and cultural rights had become more acute and widespread.

15. As a "think-tank" of the United Nations human rights system, the Sub-Commission had a duty to try to see human rights in the light of current trends and the changing world order. Consequently, it must cease to look at human rights solely as a system of legal norms and procedures, and must adopt a more integrated approach to human rights questions and other areas of global international concern.

16. It was becoming increasingly difficult to understand the root causes of the continuing massive violations of human rights without addressing questions such as critical poverty, criminal violence, terrorism and drugs trafficking, religious and ethnic intolerance and environmental degradation - global problems that affected the ability of Governments and other institutions to promote the rule of law and respect for human rights. International cooperation for the improvement of respect for human rights must go beyond mere moral or political sanctions, and achieve an understanding of the social, economic, cultural and political factors which might bring about an improvement in universal enjoyment of freedom and digrity.

17. Human rights were based on the assumption that all human beings shared some basic values, such as respect for the right to life, physical and moral integrity, tolerance of cultural, religious and social diversity, and non-discrimination. If those essential principles were neglected, there could be no solid ground on which to build respect for human rights, as was demonstrated by the horrifying events currently unfolding in what had formerly been Yugoslavia. Minorities and vulnerable groups were entitled to special protection enabling them to maintain their individuality, taking account of the specific nature of the minority situation, and balancing minority interests with those of the majority with a view to creating a mutually beneficial interaction.

18. Governments were not the only source of violence and violations of human rights. Acts committed or sponsored by groups or individuals, such as terrorism, organized crime, and corruption and manipulation of government officials by powerful economic groups, increasingly jeopardized the stability of democratic institutions. Democratic, pluralistic States were still the best guarantee for the respect of human rights. Yet the evolving international order seemed to be making increasingly heavier social and political demands on States, while depriving them of the necessary means and even of the legitimacy to fulfil their role adequately. Weakening the State, in favour either of local political structures or of supranational institutions, whether intergovernmental or non-governmental, seemed to be a dangerous course, some of the results of which could already be seen in the terrible fragmentation occurring in Eastern Europe, with all its ominous consequences for human rights.

19. Respect for international law was one final aspect of the prevention of human rights violations that was seldom accorded much priority in the Sub-Commission's debates. Yet many of the most important massive violations of human rights were caused initially by breaches of international law. Aggression and foreign occupation had been and still were major causes of violations of human rights. The situation that had prevailed in Namibia until recently, and the one still prevailing in the territories occupied by Israel, stood as examples. The changing pattern of international relations would in due course be reflected in international law. That, however, would be a gradual process, taking account of various factors, not least the consent of the countries involved. It was important to achieve stable and positive results in that field, to ensure respect for the Charter of the United Nations, and to establish rules of international law, including those relating to the adoption of relevant decisions.

20. Mr. MACRIS (Observer for Cyprus) said that his delegation had hoped to be able to report progress on the improvement of the human rights situation in Cyprus since the previous session of the Sub-Commission. That, however, was not the case. Since the Sub-Commission was aware of the issue, he would limit himself to mentioning that the Committee of Ministers of the Council of Europe, meeting at the Ministers' Deputies level, had decided on 2 April 1992 to make public the long-awaited Report of the European Commission of Human Rights on the third application of the Republic of Cyprus Against Turkey for continuous violations of human rights. The Commission had found that the respondent Government had violated the European Convention on Human Rights and Fundamental Freedoms on many accounts. His delegation would be pleased to communicate copies of the report to interested parties.

21. On a more optimistic note, he could report that during the past four weeks the Secretary-General of the United Nations had been conducting discussions in New York with the President of Cyprus and the leader of the Turkish-Cypriot community, with a view to finding a solution to the Cyprus problem. His delegation welcomed that development. Cyprus had gone to New York with all the necessary goodwill, good faith and flexibility, and sincerely believed that a just, viable and lasting solution to the Cyprus problem could be achieved, based, inter alia, on the restoration of human rights in Cyprus, which would no doubt have beneficial effects for all Cypriots.

22. Mr. ZAHRAN (Observer for Egypt), referring to the issue of the Palestinian and other Arab territories currently occupied by Israel, said that the negotiations which were about to start on 14 August would be the most important since those held in Madrid in October 1991. It was his hope that those negotiations together with the subsequent multilateral talks to start in mid-September would lead to a lasting and just solution to the crisis which had threatened the peace, security and prosperity of the Middle East for so many years.

23. The international community attached particular importance to the need to promote human rights and fundamental freedoms, but that effort would only become a reality when the international conventions which were recognized universally were implemented, particularly in the regions where peoples continued to be subjected to restrictions as in the occupied territories and South Africa.

24. Egypt had always striven for a peace which would be durable and based on a solid foundation involving the right of peoples to self-determination and the application of Security Council resolutions 242 (1969) and 338 (1974) which had called for the withdrawal from all occupied territories, including Jerusalem and the Golan Heights, of Israeli troops, and for putting an end to settlements, and for the full application of the Security Council resolution 425 (1978) on Southern Lebanon, and the cessation of settlement.

25. Egypt hoped that the developments which had taken place in Israel following the recent change in Government would have a positive effect on the peace process. The Arab peoples in Palestine and the other occupied territories had long awaited the possibility of enjoying their rights in the political, economic, social and cultural fields, like other peoples. The time had come for them to enjoy a return to their country and to establish a State.

26. The Arab parties had stated clearly that they were seeking to restore peace in the region and had repeated that position in coordinating meetings on 24 and 25 July 1992 when ministers had said that they were ready to sign peace treaties with Israel provided that Israel followed a policy of peace that was just and durable for all in the region.

27. Egypt would welcome a global political solution which would cover all the Palestinian and Arab territories in the West Bank, the Gaza Strip, the Golan Heights, Jerusalem and South Lebanon. He hoped that the international community and, in particular, the human rights bodies including the Sub-Commission, would play a role in accelerating the peace process so that a just and durable peace for all the peoples in the region could be achieved, thus putting an end to human rights violations in the Palestinian and Arab occupied territories.

28. In conclusion, he congratulated the Sub-Commission on the decision which it had taken at the previous meeting regarding former Yugoslavia, particularly the part relating to Bosnia and Herzegovina. The decision represented a positive contribution towards finding a solution to the problem.

29. Mr. GONNETILLEKE (Observer for Sri Lanka) said that recent incidents even in developed countries, had revealed an undeniable link between poverty and violence. Economic stagnation due to mismanagment or external market conditions and population explosion had compelled youth, the most affected group of society, to identify the Government as the cause of their problems and eventually to resort to open rebellion against the State.

30. Since the country's independence in 1948, the policy of his Government had been designed to improve the living conditions of the population by investing a relatively high proportion of its resources in welfare programmes such as education and health, which had had a positive impact on the social conditions of the growing population. In the meantime the economy, based on socialist policies, nationalization of private enterprises and falling commodity prices, could neither absorb nor provide opportunities for a generation of educated and ambitious youth which should have been the country's strongest asset.

31. Motivated by economic and social inequalities and impatient with the inherent slowness of a democratic system, a group of youths, the Janatha Vimukthi Peramuna (National Liberation Front), had sought to overthrow the system by attacking the elected Government in 1971. A second bid for power 16 years later had terrorized the south of the country.

32. While Sinhala youth had sought to change the political structure of the country, Tamil youth had identified issues related to their language, lack of higher education facilities and employment opportunities as the results of a deliberate policy of discrimination against the Tamil population by what they perceived as the Sinhala majority Government. The inability of successive Governments to address the legitimate grievances of the Tamils had given rise to militancy among Tamil youth and eventually the Liberation Tigers of Tamil Eelam (LTTE) had sought to impose, by violence, a separate mono-ethnic racist one-party State in the north and east of the country. Forced conscription of hapless youth by the LTTE, the use of "baby brigades" and other grave violations of human rights had been documented by independent sources.

33. As a consequence of those developments, the resources that should have been channelled towards development activities had been eaten up by the cost of protecting the civilian population, by rebuilding repeatedly destroyed infrastructure and providing food and other essential supplies to the internally displaced population. The Government was currently endeavouring to achieve a permanent political solution with the participation of all recognized political parties. The process already included seven Tamil parties, some of which had formerly belonged to militant organizations. A multi-million dollar programme for the reconstruction and rehabilitation of the north and the east had already been drawn up and would be put into action once a political solution had been negotiated.

34. The situation in the south of the country had returned to normal and the socio-economic root causes of unrest in those parts were being addressed through the Government's "two-tiered" approach of poverty alleviation and simultaneous economic liberalization. Nationalized enterprises were being privatized rapidly. Foreign investment was returning and the once dormant stock exchange was booming. The Government was confident that, as the benefits and opportunities resulting from those policies, particularly from economic liberalization, spread to all parts of the country, productive opportunities would be created to meet the aspirations of the population, particularly youth.

35. Sri Lanka was at a crucial transition period in its economic and political development. It had made sincere efforts to assume its own responsibilities in the field of human rights and in cooperation with the international community. It was confident that, as that cooperation expanded into the economic sphere and the country was supported by increased trade and investment opportunities and by the donor community, the mutually reinforcing link between development, democracy and human rights would be further strengthened.

36. Mr. VUONG DINH VAN (Observer for Viet Nam) referred to allegations contained in a document (E/CN.4/Sub.2/1992/NGO/13) which had been distributed by the International Federation of Human Rights.

37. Viet Nam had on many occasions affirmed that there were no political prisoners or prisoners of conscience in the country. Any intellectuals, artists or religious people who had been imprisoned had been guilty of violations of the law, including the laws relating to national security and social order covering high treason, subversion and armed subversion, espionage and terrorism. A distinction must be made between the exercise by citizens of their rights to fundamental freedoms and the abuse of those rights to incite violence, provoke harassment and cause social disorder. Any violation of the law must be punished according to law.

38. The sole purpose of the re-education centres was to re-educate the most dangerous war criminals who had committed grave crimes against the Vietnamese people. The temporary establishment of re-education centres was actually an expression of the policy of leniency and generosity of the Vietnamese Government. As from 30 April 1992, the re-education centres no longer contained any former collaborators of foreign countries who had worked against national independence.

39. Referring to paragraph 8 of the document, he wished to say that Superior Bonze Thich Don Hau was a respected member of the Central Committee of the Viet Nam Fatherland Front who had made a great contribution to the struggle against foreign aggression and had been given a State burial service as an expression of respect on the part of the people. The practice would continue in the future as it was in conformity with Vietnamese ethics. An attempt to capitalize on the passing of a personality who had contributed his whole life to the independence of his country was an insult to the soul of the departed.

40. Paragraph 2 (a) of the document was self-explanatory. Viet Nam welcomed all businessmen, including American businessmen, who wished to do business in the country. The Vietnamese arrested, allegedly because of his contacts with an American businessman, had been arrested not on the charge of doing business but because of "other business".

41. He recalled that in 1990 the same non-governmental organization had wrongly reported the arrests of Mr. Huynh Tan Mam and Le Quang Vinh both of whom had been free at the time.

42. He saw no need to comment on the statement made by Pax Romana as the contents and approach of that intervention had been self-explanatory. Moreover the Vietnamese Government had pursued a policy of leniency and generosity towards former collaborators of foreigners and had offered them opportunities to start a new life in which they would be entitled to the same benefits and responsibilities as all other citizens.

43. Mrs. BENT ABBI (Observer for Morocco) invited the attention of the Sub-Commission to the situation in the Polisario Tindouf camp where she had spent 17 years before she had, with great difficulty, managed to escape and return to her country and family.

44. Systematic violations of human rights took place in those so-called refugee camps which were in fact detention camps where thousands of men, women and children who had contested the legitimacy of the Polisario were kept in a state of terror based on isolation, persecution and physical degradation.

45. The Polisario had an indefinite number of detention camps around Tindouf where torture was practised widely. Those included the women's camp at Smara where all forms of violations of human dignity were perpetrated; many illegitimate children died there as a result of premeditation and the very harsh conditions in which they had been born. Other detention camps were the Rachid military prison and the Rabuni headquarters of the Polisario. Those detention camps were isolated from each other and existed in a constant state of siege. In each camp only vehicles of the repressive regime and people with special passes could circulate freely. In those conditions intimidation and abuse were the norm; separation of families was the rule with children and young people being taken by force and sent to indoctrination and military training centres. The arbitrary character of those camps represented another form of repression: the Polisario leaders decided on life or death through the military tribunals which comprised individuals who were semi-illiterate and in most cases had been instructors in torture centres as well as being members of the Polisario political leadership.

46. International opinion appeared to have ignored the glaring reality of those detention camps. Humanitarian assistance had been diverted for the enrichment of certain Polisario leaders and their families who were scandalously rich. Vehicles for crippled children were being used to divert humanitarian assistance and ambulances provided by European non-governmental organizations had become the official cars of Polisario leaders. Generators, waterpumps, agricultural equipment and water tanks to supply the camps were sold to individuals or used for military purposes.

47. The Polisario continued to forbid people from returning to their homes or freedom of movement and prevented family reunification notwithstanding the cease-fire. The immense majority of the people from west Sahara wished to return to their homes and contribute to the economic and social development.

48. Nevertheless, Polisario had multiplied its monitoring units in order to prevent civilians from escaping and soldiers from deserting. Many people had been murdered while others had disappeared or been detained in recent months for trying to escape. Lists of such people were available to the Sub-Commission.

49. Several hundred former members, including herself, had left the Polisario. Among them were former civilian and military officials and the flow was increasing. It had been reported two days earlier that Brahim Hakim, former Minister for Foreign Affairs and member of the National Secretariat of Polisario, had returned to Morocco. Those developments indicated that Polisario was falling apart.

50. She appealed to the Sub-Commission to make every effort to end the unacceptable situation prevailing in the camps and to secure the liberation of those held in Tindouf, including her own father who had been kidnapped in 1975 by a Polisario commando.

51. The CHAIRMAN said that she did not believe that the speaker had had to escape from the Tindouf camp; she had seen the observer for Morocco in Geneva enjoying freedom of movement and the right to profess what she now called ideological indoctrination.

52. Mrs. WARZAZI said that she had been at the United Nations since 1959, and it was the first time that she had ever heard a Chairman reply to a delegation on a question that did not directly concern him or her. The observer for Morocco had reported what it considered to be a deplorable situation. It was the right of observer delegations to the Sub-Commission as well as that of experts and non-governmental organizations to provide the Sub-Commission with information on what they regarded as human rights violations. The statement was in no way directed against the Chairman's country.

53. She hoped that there would be no repetition of that unfortunate incident, because it might well hurt the credibility of the Sub-Commission's experts. For years, non-governmental organizations had attacked her country, and she had never taken the floor to protest or to reply, but had left it to the delegation of Morocco to do so, because that was the task of delegations, and not of experts.

54. The CHAIRMAN said that she had not spoken as the representative of Algeria, but as a member of the Sub-Commission; the fact that she was Chairman did not deprive her of her rights as a member of the Sub-Commission or of the right to make comments, especially when they were intended as evidence to re-establish the facts.

55. Mrs. WARZAZI said that if the Chairman had wished to make comments as an expert, she should have done so from her seat, and not from the Chair.

56. Mrs. ATTAH requested that the Sub-Commission should suspend that particular discussion and should proceed with the debate.

57. Mr. AKTAN (Observer for Turkey) criticized the tactic used by many non-governmental organizations of presenting violations in an exaggerated manner, thereby tarnishing the image of countries.

58. Terrorism was a human rights violation, and Turkey joined other delegations in thanking Mr. Eide for expressing the simple truth that individuals also committed such violations. Indeed, that fact was implicit in article 30 of the Universal Declaration of Human Rights. Thus, terrorist groups as well as States parties to international instruments should be held accountable for their actions.

59. Yet, when reading the reports of Amnesty International, one had the impression that there was no such thing as terrorism, terrorist groups, individual terrorists or victims of terrorism: there were only violent groups, generally referred to in such reports as "armed political opposition groups". His allegation asked Amnesty International to name just one terrorist organization so that the Sub-Commission could see the difference, assuming that there was one, between it and armed opposition groups.

60. On page 13 of its 1992 report, Amnesty International stated that it would start publishing material on the atrocities committed by armed opposition groups and on their victims, but it also cautioned that that programme would be developed in phases. Yet if it was possible to protect victims through a publication effort, his delegation wondered why Amnesty International was waiting so long to do so. The report went on to say that the deliberate killing of unarmed civilians - or of soldiers who had laid down their arms or were incapacitated - was arbitrary. Presumably that meant that accidental killings of unarmed civilians and deliberate killings of armed civilians as well as non-arbitrary killings of soldiers could be condoned. But what was really surprising was the statement that deliberate killings of civilians and of others who were taking no part in a violent conflict was often a tactic of political opposition groups. What Amnesty International minimized as a tactic was the very nature of terrorism, namely the killing of innocent non-combatants. The fundamental right of innocent people not to be killed, their right to life, was what Amnesty International had been disregarding throughout its existence. Amnesty International had apparently been inspired by the theory which accepted loss of life as sometimes being inevitable on the way to reaching a worthy goal. By ignoring the terrorist nature of violence, certain NGOs gave the impression that human rights violations committed by States were the prime cause of the violence supposedly committed in self-defence of those groups, which inevitably and unfortunately caused

victims. For such NGOs, ethnic and ideological violence emanating from the weaker party was bound to be somewhat terrorist in nature, and such violence was an inescapable ingredient of human affairs. Such reasoning made it possible to justify the torture and killing of innocent people.

61. Studies on terrorist violence had shown that terrorists in fact never represented their ethnic groups, because if they did, they would not need to resort to violence. Indeed, their self-hatred resulted in the killing of many members of the ethnic groups they claimed to represent. Terrorists never really tried to achieve their political aims, which were an illusion, and the means they employed made a mockery of those aims. Their real purpose was to right past wrongs allegedly committed against their ethnic group. They were only able to create a sense of identity through random killings, and if the international community denied them the basis for their identity, they could not survive; his delegation therefore urged the Sub-Commission to take up terrorism as a human rights issue, to condemn it by name and to defend its victims. Turkey invited the NGOs to declare that they were against any form of violence, including the violence of the so-called "armed opposition groups". He noted in that context that at the 1992 meeting in Helsinski of the Conference on Security and Cooperation in Europe, the decision had been taken to condemn all acts of terrorism, to work to eliminate that threat to security, democracy and human rights, to refuse to consider national minority issues in situations involving organized actions of terrorism and to refuse to communicate with or acknowledge communications from any person or organization that practised or publicly condoned racism or violence.

62. Turkey had been subjected to the procedure under Economic and Social Council resolution 1503 (XLVIII) since 1988. It might sound strange that his delegation was stating that openly, but that supposedly confidential procedure had been made public anyway in the annual report of Amnesty International. Furthermore, all confidential materials submitted by Amnesty International appeared in its annual country reports on Turkey. The procedure and the breach of confidentiality were very unfair to Turkey. It should also be pointed out that the contribution of Amnesty International to the procedure on Turkey did not meet the criteria under Council resolution 1503 (XLVIII) or under Sub-Commission resolution 2 (XXIV): their communications were not accompanied by clear evidence, they did not indicate whether domestic remedies had been exhausted and they had not been reliably attested. In order to compensate for those shortcomings, Amnesty International had increased the number of communications to give the impression of a consistent pattern of "gross violations". The result was that terrorists were depicted as innocent people oppressed by the State and terrorism as being largely supported by the population. That hurt the chances of eliminating real human rights violations.

63. His delegation would not dwell upon the constant improvements in Turkish legislation and government practices, except to say that Amnesty International almost always belittled such improvements and misinterpreted or omitted others, while playing down the importance of the international and regional control mechanisms to which Turkey was a party.

64. The 1992 Amnesty International report on Turkey referred to the so-called armed opposition group of the Kurdish Workers' Party (PKK). His delegation asked Amnesty International to tell the Sub-Commission at which factories

those workers worked and what they produced. In actual fact, PKK terrorists had murdered 1,108 civilians, 456 soldiers, 65 policemen, and 177 village guardians in Turkey since 1984. For the past year, his delegation had been providing information on hundreds of victims to NGOs, including Amnesty International. But Amnesty International's report mentioned only five killings; that was unfair.

65. Mr. EIDE, speaking with reference to the statement made by the observer for Turkey, pointed out that terrorism was, indeed, prohibited under international humanitarian law, but the point at issue was the methods used, and not who was using it. Both Governments and non-governmental bodies could commit terrorism, and clearly there were many cases in which government forces were doing so. It should not automatically be assumed that non-governmental entities were terrorist movements or that Governments did not use terrorist methods.

66. Mr. BLACKWELL (Observer for the United States of America) said that despite progress made, torture was still commonplace in too many parts of the world. Nevertheless, in the new post-cold-war environment of the 1990s, the chances were greater than ever of making outlaw nations and individuals accountable and of forging a new world order that refused to tolerate such human rights violations.

67. The most recent report of the Special Rapporteur on torture (E/CN.4/1992/17 and Add.1) made clear just how serious the problem continued to be. The report contained allegations of torture in 65 countries involving a wide range of psychological, physical and sexual abuse. Non-governmental organizations had estimated that torture occurred in more than 100 countries.

68. It was important to stress that not all abuses took place in totalitarian or authoritarian countries. Serious violations had occurred in some countries that had been nominally democratic for decades. Even in democracies where the judiciary was independent and fair, there had been many instances in which those in positions of authority had engaged in acts of brutality. Such abuses had taken place in his own country and probably did in all countries at one time or another. But the key question was whether they were routine and were sanctioned by the authorities and the judicial and constitutional system and whether the means existed for bringing the perpetrators to justice: in short, whether a given country was governed by the rule of law.

69. Societies based on the rule of law did not tolerate forced confessions, a frequent tool for obtaining convictions which could only encourage torture and other mistreatment. Societies based on the rule of law did not allow detainees to be held incommunicado, a practice that was conducive to many forms of psychological and physical abuse. Any country that was serious about abolishing torture must eradicate the surrounding conditions in which torture flourished.

70. His delegation endorsed the recommendations on torture contained in the report, which it called upon all countries to adopt internationally recognized human rights standards, to refrain from incommunicado detention, to allow inspections of places of detention, to punish perpetrators, to compensate victims and to strengthen their judiciaries and provide human rights training to law enforcement personnel.

71. World public opinion must focus relentlessly on abusers and publicize their misdeeds in the media. All available diplomatic channels must be used, as well as the newly invigorated machinery of the United Nations, to exercise all possible pressure on regimes in which such behaviour was tolerated.

72. It was not necessary to have an army of witnesses as evidence of an offence before taking action. The tactic of denial and the assertion of insufficient evidence had long been used by those who disregarded human rights, and it must not be allowed to succeed.

73. The issue was complicated by the fact that few torturers proudly advertised their trade. Offending Governments sometimes admitted to charges of aggressive law enforcement, which they attempted to justify by reference to internal crises, such as terrorism or social upheaval, but rarely to torture. In most, if not all, the countries cited in the Special Rapporteur's report (E/CN.4/1992/17 and Add.1), torture was illegal, and more than 100 countries had ratified the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, yet the practice continued on an alarming scale. It was time for the international community to take bolder action and to step up the implementation of existing human rights standards.

74. The 1993 World Conference on Human Rights should be used to establish a plan of action for eliminating torture and related human rights violations. To that end, his delegation sought the active participation of all parties, whether Governments, independent experts, non-governmental organizations or private citizens.

75. Implementation and enforcement would require more than declarations. It was essential to take immediate action to reverse the vicious outbreaks of ethnic violence and discrimination against minorities, which were often accompanied by torture. The plan of action should include training programmes for police and security officials, a new definition of rules of evidence and measures to ensure access to places of detention. The Sub-Commission was well suited to address that important issue.

76. Mr. AL-DOURI (Observer for Iraq) said that the discussion of the human rights situation in his country had been used as a means of implementing the policy objectives of the United States of America and its allies in their efforts to control oil supplies and achieve regional domination. Did the Sub-Commission really consider that human rights were being promoted when, as several humanitarian organizations had ascertained, the Iraqi people was suffering from severe food shortages, when many Iraqi hospitals were not operational for lack of medicines and equipment, and when Iraqi students were unable to study for lack of paper and educational materials - all as a result of the economic embargo decided upon by the Security Council? Even the Special Rapporteur on the situation of human rights in Iraq had been involved in the United States political campaign against Iraq. Indeed, what was the exact relationship between the Special Rapporteur and the Commission on Human Rights, and under what procedure had he presented his report to the Security Council? He should reconsider his position and adopt a more credible approach.

77. The treatment meted out to Iraq constituted a dangerous precedent to which other countries not liked by the United States of America might find themselves exposed in future. He appealed to all those concerned with the work of the Sub-Commission to show objectivity and to ensure that international political objectives did not prevail in human rights matters. In any case, the continuing economic blockade and threats of military pressure would certainly not contribute to the promotion of human rights in Iraq.

78. Mr. YOSHIHARA (Observer for Japan), referring to a case of attempted wire-tapping in his country raised by the representative of the International Association of Democratic Lawyers, explained that in Japan the political neutrality of the police was guaranteed through the Public Safety Commission system. The police worked in accordance with the law and there was no "secret police".

79. The Tokyo District Public Prosecutors Office, after having investigated the case and identified the policemen belonging to Kanagawa Prefectural Police Headquarters as suspects, had subsequently concluded that there was no suspicion of abuse of authority by a police officer. It had also suspended the prosecution for the attempted violations of the Telecommunications Business Act. That conclusion had subsequently been approved by the courts.

80. The suspension of prosecution for the attempted wire-tapping had been decided upon after considering the various circumstances. For example, the two policemen involved had already been subjected to disciplinary measures and to considerable social punishment resulting from coverage by the mass media. In addition, the police authorities had issued an official circular reconfirming the need for the police to work properly in accordance with the law. At present, two cases of civil procedures were being heard in the courts.

81. In short, the relief procedures had already been put into operation for the case, some of them were still being heard, and the rights of Mr. Ogata were guaranteed in those procedures.

82. Mr. SRISODAPOL (Observer for Thailand) said that he wished to clarify some of the points contained in the statement made by the representative of the International Commission of Jurists at the previous meeting.

83. First, the executive decree granting amnesty to those involved in the May incident, which had recently been upheld by the Constitutional Tribunal, would apply to those involved in the riots that had ensued during the demonstration as well as to those responsible for quelling the riot. The executive decree still had to be submitted to Parliament for approval, following the forthcoming elections in December.

84. Second, commissions and committees had been established by Parliament, the Ministry of Defence and the Cabinet to investigate the May incident. The Committee established by the Cabinet had been entrusted with responsibility for investigating the May incident and for making appropriate recommendations in the event that government officials or anyone else were found to have committed offences or to have neglected their responsibilities; for surveying the extent of the damage arising from the May incident, including the loss of lives and damage to property of those involved in the demonstrations and for

making appropriate recommendations; for making recommendations on measures to prevent future loss of life, violations of human rights and damage to public and private property in cases where government officials were required to maintain law and order during demonstrations and, if deemed necessary, for making recommendations on changes in legislation pertaining to the maintenance of law and order, states of emergency, the imposition of martial law and the power of government authorities during such incidents; and finally for inviting officials to give evidence and for requesting relevant documents from public agencies.

85. The Sub-Commission could rest assured that while the May incident had led to tragic consequences, the event itself had been the result of a political development towards democracy in Thailand had marked a turning-point in Thai history. As a result, Thailand would emerge as a better and more mature democratic society.

86. Mr. MILOSEVIC (Observer for Yugoslavia), referring to statements made at the beginning of the meeting, said that the current session of the Sub-Commission was neither the place nor the time to discuss the matter of whether the Federal Republic of Yugoslavia did or did not exist as a legal entity. The continuity of the legal personality of Yugoslavia was in accordance with the practice of international relations and the standards and principles of international conduct in similar situations, particularly those in the United Nations. On 8 October 1947 the Sixth Committee of the General Assembly had adopted principles concerning the succession of States and the continuation of membership in the United Nations. Those principles essentially indicated that the country which seceded had to apply for membership in the United Nations and that the country that remained, irrespective of its size, continued to be a member of the United Nations. The mere fact that three or four secessionist Republics of the former Socialist Federal Republic of Yugoslavia had applied for membership in the United Nations proved that the principles of the Sixth Committee applied to the case of Yugoslavia and consequently the continuity of the membership of the Federal Republic of Yugoslavia was not in question.

87. The Federal Republic of Yugoslavia had always maintained that the successors of the Socialist Federal Republic of Yugoslavia were the four secessionist Republics and the Federal Republic of Yugoslavia. Continuity had nothing to do with succession and was subject to the principles laid down by the Sixth Committee on 8 October 1947. Yugoslavia, as founder Member State of the United Nations, considered that the continuity of its membership was its right and that its right was confirmed by its active participation and cooperation with all international organizations and the fulfilment of obligations undertaken in conventions and other international agreements. Proof of the international legal personality of the Federal Republic of Yugoslavia was also provided by the fact that it had full legal power to sign international agreements, both with international organizations and their respective bodies such as UNPROFOR, as well as with other sovereign States.

88. Mr. SIMONOVIC (Observer for Croatia) said that the political purpose of insisting that the new so-called Federal Republic of Yugoslavia was the sole successor of the Socialist Federal Republic of Yugoslavia was to avoid

compliance with the preconditions concerning human rights which were required by the international community in order for a State to be internationally recognized.

89. Mr. MILOSEVIC (Observer for Yugoslavia) reiterated that the Federal Republic of Yugoslavia had always maintained that the successors of the Socialist Federal Republic of Yugoslavia were the four secessionist Republics and the Federal Republic of Yugoslavia. Continuity had nothing to do with succession and was subject to the principles adopted by the Sixth Committee of the General Assembly on 8 October 1947.

90. Mr. SIMONOVIC (Observer for Croatia) said that the so-called Federal Republic of Yugoslavia did not fulfil all the conditions provided for in the principles mentioned by the previous speaker. Moreover, there were other relevant legal documents to be taken into account. The point at issue at the moment was not whether the so-called Federal Republic of Yugoslavia should retain the status of the former Socialist Federal Republic of Yugoslavia but whether the newly created so-called Federal Republic of Yugoslavia was prepared to fulfil the conditions necessary for recognition as a State by the international community, particularly in the field of human rights.

91. Mr. SEMICHI (Algeria) said that he had been informed that in his absence certain very serious accusations had been made concerning alleged human rights violations in a town in the west of Algeria. The person who had made such a statement had said either too much or too little. In recent years, Algerian delegations had refrained from engaging in any polemics or discussion of a problem which had originated as a problem of decolonization and for which a final solution was being sought through political negotiations. The current background was that concord existed among the peoples of the Mahgreb, to which coexistence had given new hope. The kind of language that had been used concerning alleged violations of human rights in the west of Algeria called for the firm kind of reply needed to deter all those who wished to distort the existing problems of the region. Thus, Algeria did not have to deal with false allegations. It had already given sufficient proof of its maturity not to have to justify its behaviour or apologize for any violation of human rights. Intergovernmental organizations and non-governmental organizations were sufficiently aware of the problems of the Mahgreb not to let themselves become engaged in a reaction that would not be conducive to the establishment of a lasting peace in the area.

92. Mr. BENHIMA (Observer for Morocco) expressed surprise at the previous speaker's indignation. At no time had the Moroccan delegation implicated Algeria. It had merely mentioned a place in Algeria where camps were located. Was the Algerian Government in full control of those camps? If Algeria invoked its willingness to negotiate, Morocco, too, had proved its maturity and had always been willing to negotiate. The Sub-Commission was discussing human rights problems and not self-determination, for which it was not the appropriate forum. In any case, the Moroccan delegation had been fully entitled to state its views.

93. Mr. JOINET observed that it was his understanding that in the Sub-Commission statements equivalent to a right of reply were made by government observers not to dispute among themselves but to respond to the proceedings of the Sub-Commission itself.

94. Mr. SEMICHI (Observer for Algeria) said that he fully agreed with Mr. Joinet; in the Sub-Commission statements equivalent to a right of reply ought to shed light on the debate under way. However, the accusation made against Algeria was quite exceptional. When it was asked whether there were violations of human rights in a town in Algeria, it was the Government's duty to clarify the position. His first statement had placed the problem in its correct context. However, when a specific reference was made to an alleged violation of human rights in a country and when the representative of that country was asked whether his Government had full control over its territory, that amounted to unacceptable interference.

95. Mr. BENHIMA (Observer for Morocco) assured the representative of Algeria that at no time had he implicated Algeria or accused it of committing a violation of human rights. He had merely referred to violations of human rights committed by the Polisario Front at a Polisario camp situated in a town in Algeria. Consequently, he did not understand why the representative of Algeria had again accused the Moroccan delegation of an offence which it had not committed.

ELIMINATION OF RACIAL DISCRIMINATION (agenda item 5) (continued)

(a) MEASURES TO COMBAT RACISM AND RACIAL DISCRIMINATION AND THE ROLE OF THE SUB-COMMISSION (continued)

96. Mr. CHERNICHENKO drew attention to the inadequate way in which his statement had been reflected in a press release issued on 10 August 1992 by the Information Service. He had spoken on racism, and half of his statement had been devoted to the danger of a rebirth of a new form of apartheid in the Baltic States, or at least in Latvia and Estonia; he had also pointed out that that opinion could be found in the press as well. Yet press release No. 3134 had made no mention whatsoever of the Baltic States. Perhaps the person who had drafted it sympathized with the discriminatory policies towards the Russian-language population in the Baltic States. For his part, he intended to ask the Information Service to issue a correction. It was essential for the press releases to reflect accurately the statements made in the Sub-Commission.

97. The CHAIRMAN said that the Information Service was very receptive to requests for corrections, and she was confident that they would, in fact, issue a correction accurately reflecting Mr. Chernichenko's statement.

The meeting rose at 6.10 p.m.